

AUG 15 2012

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IN THE CIRCUIT COURT, SEVENTH
JUDICIAL CIRCUIT, IN AND FOR
VOLUSIA COUNTY, FLORIDA

CASE NO. 2011-35958-CFAES

STATE OF FLORIDA

v.

MARK LUCKE CRISWELL,

Defendant.

ORDER

The above cause came to be heard upon the stipulation of the parties. Again. A plea was entered in this cause when the parties advised the court that they were in agreement regarding not only a sentence, but also a restitution amount. The court was later advised that the parties discussed the matter away from court and agreed that the restitution amount agreed upon at the sentencing hearing was incorrect. A hearing was requested by the parties to determine the appropriate amount of restitution and was conducted before the court on June 4, 2012. Based upon the evidence introduced at the hearing, argument of counsel, and the memoranda of law submitted by the parties, the court finds the following by a preponderance of the evidence based upon substantial competent evidence adduced in the course of the hearing:

1. The victim received a brutal beating at the hands of the defendant. Multiple areas of his face, soft tissue, and the bony structure of his face were damaged severely. The injuries required not only emergency care, but also follow up care with medical specialists. The victim received emergency medical treatment in this community and was unable to travel to his home on the other side of the country for some time following the beating. Accordingly, he sought follow-up care with specialists in this community and remained in this community until he was able to travel safely.
2. Fortuitously, the victim had arranged a vacation for his family in this community before he was beaten by the defendant. While he was unable to enjoy the vacation while he recuperated, he at least had a place to stay.
3. The victim has returned to this community repeatedly so that he may maintain the continuity of care that is critical for his injuries. He has also sought medical and other treatment in his own community when it has been feasible. His treatment is not complete at this time. The expense of the travel to receive treatment has been enhanced because the victim is employed in an occupation that requires his presence all over the country from week to week. When he was able to return safely to work, it was still necessary for him to travel to accommodate his medical needs.

4. The victim was working at the time of the beating and he has received workers' compensation benefits for the medical expenses incurred. Workers' compensation, however, has not paid for the travel expenses which have been reasonably incurred to maintain the continuity of care referenced above. There was also a period of uncompensated wages because of the nuances and peculiarities of workers' compensation law.
5. The expenses identified by the victim in the hearing all bear a significant relationship to the offense committed by the defendant and none of the expenses would have been necessary, but for the beating.
6. Through the date of the hearing the expenses to be paid to the victim are in the amount of \$13,744.60, and a separate judgment shall be entered for the purpose of amending the existing judgment.
7. The victim will also incur expenses in the future that will be reasonably related to and will bear a significant relationship to the injury inflicted by the defendant. It is impossible to know the amount of such future expenses from this vantage point. Accordingly, the court reserves jurisdiction solely to determine the propriety and amount of future expenses that may be incurred by the victim. The jurisdiction shall expire at the end of one year from the date of the present order without the necessity of further motion, notice, or hearing if the court is not advised of a continuing controversy. In the event of a future controversy or inability of the parties to resolve issues regarding such future expenses the court remains available to hear such matters upon motion and reasonable notice.

DONE AND ORDERED in Chambers at Daytona Beach, Volusia County, Florida, this 10th

day of August, 2011.



JOSEPH G. WILL
CIRCUIT JUDGE

Copies to:

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